IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

COMPANY PETITION NO.474 OF 2004

M/s. UT Worldwide (I) P.Ltd ...Petitioners
vs.
M/s. Ajanta Pharma Ltd ...Respondents

Mr. A.A. Rao for the petitioner.
Shri R.S. Tripathi for the company.

CORAM: S.U. KAMDAR, J.

DATE : 24TH MARCH, 2005.

P.C. :

1. The present petition is filed for the recovery of sum of Rs.3,19,468/- in respect of the claim arising out of the airfreight charges under the various invoices. It is contended that though the transactions were between the petitioner and the respondent company but the contract was placed with one Krishna Enterprises in respect of the transportation of the said gods. The respondent company has filed affidavit in reply and has

inter-alia pointed out that Krishna Enterprises who is the clearing and forwarding agent of the company has raised bills dated 16.5.2001, 21.4.2001, 5.5.2001 and 10.5.2001 and the said bill also includes the claim of the petitioner as due and payable by the company to the said Krishna Enterprises. It is the case of the respondent company that the petitioner has carried out the work of transportation of the said goods under the said Krishna Enterprises. It is further the case of the respondent company that in respect of the aforesaid transactions the payment have already affected to the said Krishna Enterprises with which alone the company had priority of contracts. It is also contended that the work of transportation of goods was a part of longer contract placed by the company with Krishna Enterprises. The contract placed is a composite of clearing and forwarding of the said goods. The petitioner has also produced before me the xerox copy of the passbook of State Bank of India interalia indicating the payment of the aforesaid amount on the relevant date to the said Krishna Enterprises. There is no order placed

by the respondent company with the petitioner for transportation of the said goods.

2. According to the respondent company the contract is placed with Krishna Enterprises and thus the payments are made to Krishna Enterprises. In view of the aforesaid position in law there are bonafide disputes in the present petition. Accordingly the present petition is dismissed with no order as to costs.

sd/-

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